



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2101 OF 2024

. Vinod @ Johny @ Veer Jijaba Bhosale
Age: 19 years, Occu.: Agriculture,
R/o. Chikhli, Tq.Ashti, Dist.Beed.Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Topkhana Police Station,
Tq. & Dist.Ahmednagar.
2. XYZ (Victim)Respondents

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Advocate for Applicant : Mr.Rajendra G. Hange
APP for Respondent no.1 : Mr.C.VBhadane
Advocate for Respondent no.2 : Mr.A.B.Chormal

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 18 FEBRUARY, 2025

PRONOUNCED ON : 20 FEBRUARY, 2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in Crime no.0402 of 2024 registered with Tophkhana Police Station, Dist.Ahmednagar for offence under Sections 376(3), 354, 323, 506 of the Indian Penal Code and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act).

2. Pointing to the date of arrest as 12-08-2024, learned counsel submitted that FIR is of 28-03-2024. That, though victim is reported to be of 14 years and some odd months old, there is no cogent, reliable, trustworthy evidence about her date of birth. He pointed out that applicant's wife happens to be maternal aunt of victim. He has driven his wife out of house and therefore, out of annoyance, there is false implication. It is tactics to pressurize applicant to seek back wife for cohabitation. He pointed out that there is said to be telephonic conversation with victim, but no CDR is gathered by the Investigating Officer. Learned counsel also took this court through statement of witness, who is said to be eye witness and would point out that nothing adverse has come against present applicant. That, medical evidence does not support allegations raised in the FIR. However, according to learned counsel, subsequently, mother of victim herself tendered affidavit stating that FIR was in anger and that there is no objection for grant of bail.

3. Learned APP strongly opposed by pointing that victim is apparently 14 years of age. Accordingly to him, as regards to proof of age is concerned, this is not the stage. That, there is statement of both mother and victim on the count of age. According to learned

counsel, considering the gravity of offence and Sections involved including POCSO Act, he submitted that affidavit by mother may not be considered.

4. Heard. Perused the papers. In report dated 28-03-2024, victim has reported that present applicant is husband of her maternal aunt. That on 27-03-2024, at around 11:30 p.m. applicant gave her call on mobile and asked her to come out of the house and then allegedly took her on his two wheeler to a ground near Ekta College and there she claims that initially he touched her breasts and when she resisted, he slapped her and inspite of her resistance, he had forcible sexual intercourse with her. Hearing shouts of her mother, accused ran away. In the morning of 28-03-2024, she again reported that he made a phone call and issued threats, if report is lodged and so she and her mother approached Police.

Apparently in the report lodged by victim, she has given her age as 14 years. On her report, crime has been registered bearing no.0402 of 2024 for above offences. Mother of victim, whose statement is also recorded, shows that at around 12:00 in the midnight, not finding daughter in the house, she and her sister i.e. wife of applicant, went to look out victim and she was allegedly

found on the ground. Hearing her shouts, victim came weeping and informed about incident with her. Victim is subjected to medical examination.

5. Learned counsel for respondent no.2 has placed on record affidavit on behalf of respondent no.2 i.e. victim and her mother. Apparently, there is a mere thumb impression of mother of victim on the affidavit. Therefore, though subsequently affidavit has been filed through mother of victim, considering the serious allegations, resulting into FIR, this court is not inclined to grant relief as prayed. Hence, the following order :

ORDER

Bail Application is rejected.

(ABHAY S. WAGHWASE)
JUDGE